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From: Kimberly A.C. Kennedy  
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Kekaha, HI 96752

Re: State/AR-01/96

December 9, 2003

To Whom It May Concern:

The following comments highlight the concerns I have as an adoptive parent and an advocate for ethical adoptions. The most recent Hague regulations are a big improvement over the last set of proposed regulations, but still leave loopholes for the unscrupulous and unprofessional to operate in the intercountry adoption process. It is essential that the Department of State tighten the regulations to provide as much protection as possible for children, birth parents and adoptive parents.

Regarding Small Businesses

The Department takes considerable effort to ensure fairness to small agencies and adoption providers. While I can understand the need to have adequate home study provider coverage across the country, I do not understand why the regulations cater to small agencies. For example, our family has never used an adoption agency in our home state for child placement and the geographical distance did not present any problems. The Department should be more concerned about improving adoption services and practices across the board than minimizing adverse impacts on these small entities. If a small provider cannot comply with the regulations or find a larger accredited agency to take liability for them as the current regulations provide, then maybe they should close their doors. We are talking about the lives of children, not business opportunities.

Ethical Practices and Responsibilities

§ 96.35 Some states have not been effective at retaining complaint records. This poses a problem in determining the suitability of agencies to provide adoption services. In order to understand how an agency ethically handles their cases would it be feasible to randomly pull files on families who used an agency and contact them regarding their experiences when non-existent or inaccurate information may be found in State records?

§ 96.36 This should exclude pre-birth and birth medical costs. This can easily turn into a coercive situation and should be avoided to protect children and birthparents.

#### Information Disclosure, Fee Practices, and Quality Control Policies and Practices

§ 96.40 Foreign country expenses should be as detailed as possible for prospective adoptive parents. They have the right to know where the majority of their money is going in the adoption process. The "black hole" where the foreign adoption fee goes is unacceptable. A detailed breakdown of this fee would create an environment of greater accountability for agencies and their facilitators.

#### Responding to Complaints and Records and Reports Management

§ 96.41 Penalties for taking retaliatory action against a complainee should be addressed. Will such action affect accreditation?

§ 96.42 How long will the agency be required to maintain archived adoption records? It should be a period that allows adoptees the opportunity to obtain this information over a lifetime.

#### Service Planning and Delivery

§ 96.46.a.4 Omit the word "pattern." How many chances should the Department give child placing agencies? I suggest it be changed to read: Does not have a license suspension or other sanction and has not lost the right to provide adoption services in any jurisdiction for reasons germane to the Convention.

§ 96.46.b.3 Again, pre-birth and birth medical expenses should not be allowed under the regulations.

§ 96.46.b.4 This is excellent in reducing incentive for child buying. Please keep this in the regulations.

#### Oversight Through Review of Complaints

§ 96.69 Complaints against accredited agencies and approved persons should be allowed to go directly to the Complaint Registry without going to the entity in question first. I have heard numerous accounts of adoptive parents who were coerced or threatened not to file complaints with their state licensing boards or other departments. Although the regulations prohibit agencies from taking retaliatory action against complainees there is nothing to stop them from initial verbal threats meant to intimidate complainees into maintaining silence.

§ 96.70 The persons overseeing the Complaint Registry should be easily accessible to potential complainees by telephone, postal mail or electronic mail. It would be useful to

have contact information on a variety of websites other than the DOS site including, but not limited to, the NAIC site.

#### Standards for Cases in Which a Child Is Immigrating To the United States

The standards for incoming cases should closely mirror outgoing cases. While the incoming process is monitored by the sending country, the regulations should contain language that at least encourages the same application of placement standards in incoming cases as cases emigrating from the United States. For example, how many children ten years of age or older abroad are asked about their opinions or wishes for an intercountry placement to the United States? It is, in part, the adoption agency's responsibility to find out if the child's wishes have been considered in the placement.

Overall I see many positive changes ahead in improving intercountry adoption practices through the Hague regulations. Every member of the triad benefits from ethical placement practices. I would like to thank you for allowing adoptive parents like myself to be involved in this process.

Respectfully,

Kimberly A.C. Kennedy